



# State of Connecticut

## Office of Consumer Counsel

**Mary J. Healey**  
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### The Energy and Technology Committee

March 3, 2011

### **Raised Bill No. 6458, AAC Periodic Review Of Video Providers.**

**Testimony of Mary J. Healey, Consumer Counsel**

**Presented by William L. Vallée Jr., Principal Attorney**

The Office of Consumer Counsel (OCC) has carefully reviewed Raised Bill No. 6458, *AAC Periodic Review Of Video Providers*, and **supports** the bill.

The bill directs the Department of Public Utility Control (DPUC) to conduct a biennial performance review of all providers of video services in Connecticut, no matter what form of regulatory authority they provide such service under (e.g., existing CATV laws, or the new certificates of video franchise authority or cable franchise authority).

It is vital to recognize that this bill does not propose to "reregulate" the provision of video services in Connecticut, nor does it remove any of the provisions of P.A. 07-253. The bill under consideration here levels the playing field to encompass all video providers and expands the scope of the investigation to the consumer concerns that have come to light during the last three years. Further, to provide the bill with the substance warranted under the current conditions, the bill properly requires that the performance reviews shall be conducted as contested cases, with power in the DPUC to take administrative notice of all complaints filed and act upon them individually and by class of complaint, with the full participation as parties of the OCC and the AG.

The DPUC evidently believes it has no authority to review the minimum state and federal statutory requirements imposed on all video franchise holders in the state because P.S. 07-253 eliminated franchise renewal investigations, which historically provided the DPUC with a regular hearing process for reviewing the statutory compliance and service quality of all video providers. Indeed, there have been no such hearings into video provider statutory compliance since the enactment of P.A. 07-253. This bill merely clarifies the DPUC's authority to open a performance review.

But, P.A. 07-253 requires all video providers to comply with a variety of state statutory obligations and for all areas not covered by the state law, and reiterates that all providers remain

required to comply with “any federal or state laws or regulations or Department of Public Utility Control orders applicable to community antenna television companies or public service companies, or from any other federal or state laws or regulations or department orders . . . “

Further, P.A. 07-253 provided the DPUC with full authority to fine or penalize all video providers that fail to comply with their statutory obligations, state or federal. By enacting C.G.S. § Sec. 16-331o. *Imposition of civil penalties by the department.*, the General Assembly created a mirror of the existing law providing the DPUC with extensive enforcement authority relating to traditional cable operator performance, C.G.S. § Sec. 16-331aa.

It seems quite unlikely that the Legislature believed P.A. 07-253 stripped the DPUC of any authority to review video performance. If so, why did it leave the existing strong language regarding fines and penalties, including revocation of the perpetual state-wide franchises, let alone enact a new statute directed to the conduct of the new type of franchise holders? Thus, the DPUC’s claim that it lacks authority to call all video providers in for examination in a contested case is perhaps a gray zone, and one that this statute will remedy as a “process vehicle” for the DPUC to be assured that it has the authority to conduct such investigations. Equally important, the DPUC will have the statutory obligation to do so biennially.

This bill is simple and not invasive: it is NOT anti-video business. In fact, the franchise laws in Connecticut are probably the most lenient in the country. In light of the volume of consumer discontent with video service and the on-going conflicts among the various providers, it is essential that the DPUC once again become empowered to review the activities of video providers in this state.

#### **DPUC Consumer Scorecard, 2009 →**

	CY 2009	CY 2008	CY 2007	CY 2006
Cable	1080	874	796	701

If the DPUC is correct that it lacks authority to call the providers in, then this bill remedies that issue and provides for a routine hearing on the core issues of statutory compliance and performance quality. The areas of concern focused upon in this bill for performance review would include issues concerning customer service, community access support, management of outages, service to handicapped and low-income customers and cooperation with the department.

Finally, this hearing process will not cost \$50,000 to the OCC/DPUC Fund (and of course nothing to taxpayers) as the DPUC has claimed since the volume of telecommunications dockets has greatly declined in the last few years. Existing cable and telephone staff at the DPUC are perfectly capable of handling a hearing of this magnitude as part of their normal duties.

P.A. 07-253 provided the DPUC with full authority to fine or penalize both types of video providers that fail to comply with their statutory obligations, state or federal.

History: P.A. 07-253, S. 12. →

TITLE 16 PUBLIC SERVICE COMPANIES  
CHAPTER 289 DEPARTMENT OF PUBLIC UTILITY CONTROL: COMMUNITY  
ANTENNA TELEVISION SYSTEMS AND COMPETITIVE VIDEO SERVICE PROVIDERS  
Conn. Gen. Stat. § 16-331o (2008)

A **certified competitive video service provider**, and its officers, agents and employees, **shall comply with sections 16-331e to 16-331o**, inclusive, and each applicable order made by the Department of Public Utility Control pursuant to sections 16-331e to 16-331o, inclusive.

Any **certified competitive video service provider** which the department **finds** has failed to comply with sections 16-331e to 16-331o, inclusive, or any applicable order made by the department, may be fined, by order of the department, not more than ten thousand dollars for each offense.

Each distinct violation of any such order shall be a separate offense and, in the case of a continued violation, each day thereof shall be deemed a separate offense.

The department shall impose any such civil penalty in accordance with the procedure established in section 16-41 and if such penalty is imposed, it shall be the sole remedy for such violation.

The department shall also have **the authority to revoke the certificate of video franchise authority** if the certified competitive video service provider is found, after a department hearing with notice to all interested parties, to be in substantial noncompliance with the requirements of law or department orders.

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History: P.A. 07-253, S. 24. →

TITLE 16 PUBLIC SERVICE COMPANIES  
CHAPTER 289 DEPARTMENT OF PUBLIC UTILITY CONTROL: COMMUNITY  
ANTENNA TELEVISION SYSTEMS AND COMPETITIVE VIDEO SERVICE PROVIDERS  
Conn. Gen. Stat. § 16-331aa (2008)

Sec. 16-331aa. Imposition of civil penalties by the department.

A holder of a **certificate of cable franchise authority**, and the officers, agents and employees of such cable franchise authority, shall obey, observe and comply with sections 16-331q to 16-331aa, inclusive, and each applicable order made by the Department of Public Utility Control pursuant to sections 16-331q to 16-331aa, inclusive. A holder of a cable franchise authority certificate that the department **finds** has failed to obey or comply with sections 16-331q to 16-331aa, inclusive, or any applicable order made by the department pursuant thereto may be fined, by order of the department, not more than ten thousand dollars for each offense. Each distinct violation of any such order shall be a separate offense and, in the case of a continued violation, each day thereof shall be deemed a separate offense. The department shall impose any such civil penalty in accordance with the procedure established in section 16-41. If such penalty is imposed, it shall be the sole remedy for such violation. The department shall also have the authority to revoke the certificate of cable franchise authority if the holder of the certificate is found, after a department hearing with notice to all interested parties, to be in substantial noncompliance with the requirements of law or department orders.